

Attorney's Docket No.: 06618-424002

## Remarks

Reconsideration and allowance of the above referenced application are respectfully requested.

The objections to claims 1-3 have been obviated herein by amendment.

Claims 1-3 stand rejected under 35 USC 13 as being unpatentable over Tsu, et al. in view of Summerfelt, et al. In response, claim 1 has been amended to recite more details about the material which is an amorphous combination of  $\text{TMO}_x$  and  $\text{JO}_y$ . This is not shown or suggested by the cited prior art. None of the cited prior art teaches or suggests first and second immiscible compounds with a common element, formed into an amorphous state, as claimed. Moreover, advantages of this specific technique are described in the specification, and specifically at the top of page 8.

Specifically, this film has the positive attributes of TM-Si-N, but can sustain exposure to a hot oxidizing ambient without reacting. None of the cited prior art teaches or suggests such for material.

This should obviate the rejections, and a notice of allowance is thus respectfully requested.

It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific

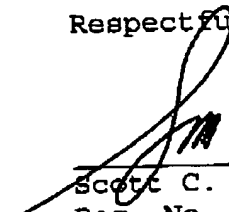
Attorney's Docket No.: 06618-424002

rejection, issue or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Applicant believes no extra claims fees are due, however, please apply the one-month extension of time fee and any other charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date:

10/12/05  
\_\_\_\_\_  
Scott C. Harris  
Reg. No. 32,030

Fish & Richardson P.C.  
12390 El Camino Real  
San Diego, California 92130  
(858) 678-5070 telephone  
(858) 678-5099 facsimile

10559014.doc